

Washington County Land Use Authority Meeting
December 13, 2011
(Recording available)

The Washington County Land Use Authority Meeting was held on Tuesday, December 13, 2011 at the Washington County Administration Building located at 197 E. Tabernacle in St. George, UT. The meeting was convened at 1:30 p.m. by Chairman Doug Wilson.

Commissioners present: Dave Everett, Deborah Christopher, JoAnn Balen, Julie Cropper, Kim Ford, and Rick Jones.

Excused: Mike Stucki

Staff present: Deon Goheen, Planning & Zoning Administrator; Kurt Gardner, Building Official; Todd Edwards, County Engineer; Rachelle Ehlert, Deputy Attorney; John Willie, Senior Planner; Kim Hafen, County Clerk; Dennis Drake, Commissioner; Alan Gardner, Commissioner; Dean Cox, County Administrator; and Doreen Bowers-Irons, Planning Secretary.

Audience attendance: Anna McFee, Betty Jake, Clarissa Griffith, Lhuck Saling, Ruben Sanchez, ???, Margaret McCormick, Wilford Jake, Mark Cox, Brandon Anderson, Danika Gunn, Truman Marshall, Lonnie Truman, Delmont Truman, Brandon Anderson, Lance Anderson, Matt Gunn.

Chairman Wilson welcomed and thanked everyone for attending. He led the Pledge of Allegiance after which, he explained meeting protocol.

I. STAFF COMMENTS. Review staff comments for each agenda item listed; Staff initiated.

II. PLAT AMENDMENT. Consider Plat Amendment for Lonnie Truman Subdivision Amended, to add two (2) new flag lots and revise Lot 1; Section 15, T39S, R15W, SLB&M, generally located along Sage Road in Pine Valley; Lonnie and Delmont Truman, applicant. (*Tabled Oct. 11, & Nov. 8, 2011 for attorney's opinion*).

The Planner presented a copy of the amended subdivision plat. She reported the item was tabled at the previous meeting to allow for review and an opinion from the county attorney as to Flag Lot requirements being met. As previously reviewed, the applicant submitted an amended plat for the Lonnie Truman Subdivision Amended to create two flag lots and revise Lot 1. A public hearing was held. There have been changes to the easements and drainage; and a sliver of land on the northwest side of the development has been deeded to an adjacent parcel. The rest of the subdivision is to remain the same as shown on the original recorded plat. The "Will Service" letters for power, phone, and water, plus a letter of septic feasibility from the Southwest Utah Public Health Department will remain the same, whereas, the number of homes allotted will be the same as originally planned.

Ms. Ehlert reported on the information she found related to this type of use. She cited County Ordinance Codes from Title 10, Zoning Regulations and Title 11, Subdivisions. Based on those chapters, the planning commission may determine if standard lots are not feasible, they may, in order to encourage more efficient use of land, allow a flag lot to be developed with the regulations and conditions noted in Title 11-6-2. Also look at code section 11-6-4.A.2., which comes into play here if the property cannot be reasonably subdivided. Ms. Ehlert noted that in previous meetings, Mr. Edwards stated he prefers curb, gutter, and sidewalk not be installed as it would create drainage problems because it is not consistent with this area.

The Commission and staff discussed the plat amendment at length. They determined the amendments would not increase density, additional activity, traffic, and the applicants were redrawing the lines to clean up the lot lines. Ms. Ehlert stated this meets all of the requirements of the ordinances.

Chairman Wilson clarified the applicants were following all aspects of the subdivision ordinance. Staff affirmed they were.

Additional questions, answers, and discussion on the project occurred. The applicants would need to install a turnaround for the fire equipment. The plat amendment would clean up the property lines and make it more beneficial i.e. acquiring loans, tax issues, single family ownership, etc.

Lonnie Truman explained why they are asking for the plat amendment. He stated if curb, gutter, and sidewalk is required, they would come back with 1,300 sq. ft. lots, which could increase the number of homes they would be able to build. The engineer is working with the fire department for the required access and there is no issue in installing a turnaround to the Fire Marshal's specifications. He indicated there would not be any additional homes or subdividing to the property. He thanked the Commission for their time and consideration.

Commissioner Balen commented on issues in having a family compound, which was briefly discussed.

A discussion on drainage issues occurred where Mr. Edwards stated when the request first came up, he requested a drainage report from the applicants engineer addressing a drainage plan to show what size pipes would be needed and where in order to ensure drainage was not an issue. The drainage was designed with this layout in mind. He indicated he has never asked for or received anything on a cul-de-sac design. It was his opinion that it would be a more difficult drainage problem to solve if a cul-de-sac with curb, gutter, and sidewalk was installed. Basically, the area that runs down through, behind the lots in the front, there is a low spot that runs down through there and if you were to put in a cul-de-sac with curb, gutter, and sidewalk there it would create a dam and then something would have to be designed for the water to go through that area. Currently, the drainage works fine. However, the applicants will need to provide design drawings on the flag lots. He reiterated that requiring curb, gutter, and sidewalk would create drainage problems for the neighbors as currently those improvements are not installed on the surrounding properties. The main issue is the fire department requirement of a turnaround. We have not seen anything from their engineer on a hammerhead or fire truck turnaround.

The Commission discussed and made the following findings of fact:

- Flag lots are allowed by ordinance;
- Changing of the plat is allowed by code and this application meets the code requirements;
- The Planning Commission recommends the County Commission approve the request under Title 11-6-2-G1;
- This change does not increase density;
- Makes a more efficient use because it would allow loans to be obtainable;
- According to 11-6-4-A3, the Planning Commission and County Commission have the authority to waive improvements;
- Meets the requirements of County Engineer, Todd Edwards, in that curb, gutter, and sidewalk is not desirable for this project and the current drainage system works well;
- The owner has stated, for the record, his willingness to install a fire department turnaround.

Motion: Commissioner Balen MOVED to recommend the County Commission approve the Plat Amendment for Lonnie Truman Subdivision Amended, to add two (2) new flag lots and revise Lot 1; Section 15, T39S, R15W, SLB&M, generally located along Sage Road in Pine Valley, applicants, Lonnie and Delmont Truman with the following findings of fact:

- Flag lots are allowed by ordinance;
- Changing of the plat is allowed by code and this application meets the code requirements;
- The Planning Commission recommends the County Commission approve the request under Title 11-6-2-G1;
- This change does not increase density;
- Makes a more efficient use because it would allow loans to be obtainable;
- According to 11-6-4-A3, the Planning Commission and County Commission has the authority to waive curb, gutter, and sidewalk improvements;

- **The project meets the requirements of County Engineer, Todd Edwards, in that curb, gutter, and sidewalk are not desirable and the currently installed drainage works well;**
- **The owner has stated, for the record, his willingness to provide an access road for fire equipment.**

Commissioner Christopher SECONDED. The motion carried with all six (6) Commissioners voting in favor.

The item will go before the County Commission on December 20, 2011 for consent.

III. CONDITIONAL USE PERMIT EXTENSION. Review permit to create pasture grounds, corral and stabling lease areas for horses and equipment, a storage area, and work shop for the Kayenta development group within the OST-20 zone, a portion of Sec. 36, T41S, R17W, and Sec 1, T42S, R17W, SLB&M, generally located south of Ivins; Terry Marten, applicant. (*3rd extension*)

The Planner stated this is the 3rd extension review of a request for riding stables, training arenas, and a fenced RV storage area. These uses are conditionally approved within the OST-20 zone (*County Code 10-6B-3*). The commission made findings that the uses are similar to the listed conditional uses and judged by the planning commission to be in harmony with the character and intent of the zone. She explained the area. History shows previous attempts by Sheila Wilson, founder and Sunhawk Productions to establish a Native American Cultural Center at this location have diminished, the mortgagee, Terry Marten (Kayenta Development), would like to pursue viable options on his investment, until this area can be combined with surrounding future development, annexed to Ivins, and/or Ms. Wilson's past dream becomes a reality. Mr. Marten previously submitted a site plan, provided sanitary facilities, water, BLM right-of-way documentation, engineering on flood way, floodplain and the erosion zone, although no building permit has been issued for the workshop. A letter from Sunhawk Productions was presented to the County Commission which has been provided to the Planning Commissioners.

She reported Kurt Gardner had gone out and taken pictures of the property on December 12, 2011 for their review if the commission wanted to see them. A short recess took place to retrieve the pictures. The meeting resumed after 10 minutes. Kurt Gardner reported on the pictures of the property he had taken and what he had observed while at the location.

Lance Anderson addressed the Commission and reported they are working with the Army Corp. of Engineers to address issues from flooding of the area. Betty and her group have done a lot of work to clean the property up and keep it clean. He reported on what work they have done and that they are working to mitigate flooding in the future. He explained on the ownership of the property which is the Sheila Wilson Trust. The hope is to keep going so that the note Mr. Martin has on the property can be paid.

A very lengthy discussion with question and answers on the conditional use permit and how it came about, the owner of the property, and the uses of the property took place. Chairman Wilson asked if the terms of the conditional use permit are being met and pursued. Commissioner Everett asked about the note on the property, and Mr. Anderson explained the current agreement.

Mr. Anderson stated they are trying to comply with the conditions of the permit but due to economics and past flooding issues, those conditions have not been completed at this time.

Anna McFee stated she is the head of the advisory board of the Sunhawk Foundation. The foundation is trying to preserve the valley and the Anasazi ruins that are located there. She reported on the foundations project and accomplishments. The foundation believes this use is harmful to the valley and a nuisance. She commented on the pictures that were submitted. Those pictures did not include the dumpsites or where the batteries are stored. She alleged that people have brought in barrels of liquids and are dumping them on the property. She stated the applicant went into the Santa Clara River and removed tons of river bed rock and dumped it so that vehicles could park on it. She reiterated the Foundation is against this use and complained the use is destroying the valley. She asked that the Commission revoke this use.

Commissioner Christopher asked Ms. McFee if she believed this use is contradictory. Ms. McFee answered in the affirmative.

Mr. Anderson took offense to the claims Ms. McFee implied. They are not dumping anything; the batteries are on the site for recycling which will take place as soon as possible. The Army Corp. of Engineers gave permission and advice on the rocks removed from the river. He reported they are being good stewards of the land and reaffirmed his offense at the claims made. He agreed that they still need to meet the conditions of the conditional use permit. They have not been able to move forward due to the flooding issues. He stated some of the complaints have nothing to do with their use of the grounds. The house and the animals on the property are not theirs.

Chairman Wilson asked Mr. Gardner about the building. Mr. Gardner stated the building is being occupied illegally and that the county could not grant occupancy to the home as it does not meet building codes.

Commissioner Balen asked for clarification of the entities using the property, the history of the ownership, and who had the right to the property. Mr. Anderson explained what he knew of the history of the property. He stated the foundation is using a portion of the ground they are using approximately two (2) acres.

Commissioner Christopher read the minutes from the past meeting to clarify the confusion of the uses. Ms. Ehlert informed the commission what they are reviewing is the conditional use permit extension being granted or not. The rest of the uses are not the issue for this project.

Commissioner Everett read the information of the original conditional use permit application to the commission.

Betty Jake stated she has been the steward of the Anasazi Valley since Sheila Wilson passed away. Her group, The Sunhawk Foundation, is using the property with permission of David Watson, Trustee of the Sheila Wilson Trust. She explained the dream Sheila Wilson had, which she and the foundation are trying to bring to fruition. She reported this is an archeological area and reported on some of the items they have accomplished and where they hope to go in the future. She commented that they are still there because of the help Mr. Martin and his associates provided and the contributions they have made. The goal is to preserve the valley and the ruins.

Nancy McCormick, president of Sunhawk Foundation, stated her passion for the valley. The land and the ruins are in jeopardy due to dumping and other potential harmful issues. She asked the permit be denied.

Commissioner Everett asked if the foundation had mapped the archeological sites. He stated the sites should be known to preserve them.

A discussion occurred regarding private property rights.

Clarissa Griffith read a statement regarding the Anasazi Valley area, which expressed her concerns. She also would like the permit discontinued to keep the valley pristine.

Commissioner Christopher stated the commissioners also love the lands in the County. She asked about the conditions that have not been met. The attorney stated there is nothing that gives the applicant time limits for the conditions to be met. The commission can make those time limits in their motion if they choose to allow the use to continue.

After a very lengthy question and answer discussion and arguments from Mr. Anderson and the Sunhawk Foundation members, Chairman Wilson asked that a motion be made.

Motion: Commissioner Cropper MOVED to recommend the County Commission approve the Conditional Use Permit Extension request to create pasture grounds, corral and stabling lease areas for horses and equipment, storage area, and a work shop for the Kayenta development group within the OST-20 zone, a portion of Sec. 36, T41S, R17W, and Sec. 1, T42S, R17W,

SLB&M, generally located south of Ivins, applicant Terry Marten, for one year with the requirement that all conditions of the original Conditional Use Permit requirements be completed when the next review is done or the permit will be revoked. Commissioner Ford SECONDED. The motion carried with five (5) Commissioners voting in favor. Commissioner Jones voted nay.

This item will go before the County Commission on December 20, 2011 for consent.

IV. CONDITIONAL USE PERMIT EXTENSION. Request permission to establish a staging area and locate a temporary office trailer for the I-15 Blackridge to Iron County Freeway construction at New Harmony Farms; WW Clyde & Co/Kamran Abolhasani, Agent, and Penny Weston, Landowner, applicants.

The Planner reported this is an automatic review. The applicant has located a staging area east of the New Harmony I-15 Interchange during the past year for the construction of I-15 from Blackridge to the Iron County line. The project was to run through December 2010 to August 2011 and seems to be complete at this time. The site plan showed the location of a 24'x60' office trailer, which was located on an existing pad used for a double-wide trailer and the staging area is west of this location. These types of uses are conditionally approved in the County and the applicant indicates there is a need for a staging area for this project, with this being an ideal location near the interchange. Penny Weston purchased this property which was previously owned by Evan Anderson and used as a trailer park, so the commissioners should be familiar with the location. If the project is complete this use should be withdrawn. She advised the commission the applicant had contacted the County and indicated they are no longer using the property and all of the equipment has been removed from the site. Therefore, no action needs to be taken and the permit would just lapse.

Motion: Commissioner Ford MOVED to take no action on the Conditional Use Permit Extension request to establish a staging area and locate a temporary office trailer for the I-15 Blackridge to Iron County Freeway construction at New Harmony Farms; WW Clyde & Co/Kamran Abolhasani, Agent, and Penny Weston, Landowner, applicants. Commissioner Balen SECONDED. The motion carried with all six (6) Commissioners voting in favor. The Conditional Use Permit lapsed.

V. CONDITIONAL USE PERMIT EXTENSION. Review permit to locate four (4) wind towers on State Land near Anderson Junction; Jerry Eves/Southwest Wind Energy, applicant.

The Planner stated this is an automatic annual review for a wind energy project located at Anderson Junction. At this point in time, no building permits have been issued. As previously reviewed, the four (4) towers will be located on SITLA who has issued a letter stating they have accepted the application for processing, supporting their efforts, and asking for favorable consideration on the Conditional Use Permit application. The commission reviewed the application, SITLA letter, public notice photo, waivers, noise analysis (preliminary), shadow flicker analysis, FAA letters, environmental studies, right-of-ways and visual impacts. The feasibility study was included as a part of the packet. The BLM permitting on airspace/encroachment (setbacks) was submitted and is part of the file along with a petition submitted by the property owners at Anderson Junction who are in opposition to this project.

The applicant was not present and there was no one who wanted to speak on the item.

Motion: Commissioner Balen MOVED to table recommendation to the County Commission for approval of the Conditional Use Permit Extension request to locate four (4) wind towers on State Land near Anderson Junction until the next meeting; Jerry Eves/Southwest Wind Energy, applicant. Commissioner Cropper SECONDED. The motion carried with all six (6) Commissioners voting in favor.

VI. CONDITIONAL USE PERMIT. Request permission to install a proposed 60' lattice tower within the OSC-20 zone, on BLM land adjacent to other cell tower locations on Little Creek Mountain west of Apple Valley for Rocky Mountain Power; Rocky Mountain Power/Holly Groth and Mark Cox, applicants.

The Planner stated the applicant has submitted a request for a new communication tower, which is conditionally approved within the OSC-20 zone. A site location plan and a photo of the towers located near this site were submitted. The applicant addressed the requirements for collocation, explaining their site is existing (approved June 12, 1989) and it would be too expensive to move their equipment. Homeland Security is one of the reasons for individual location. And, it is more expensive for rate payers when collocating on someone else's tower. (*County Code 10-21-2B*) Accessory equipment shelters will be reviewed by the Building Department. This application also meets the requirement for a "lattice type" tower and there was no need to create a "fall" zone (*County Code 10-21-4*). This property is located a great distance from private property or developed areas, with the leased area being 93'x111' and the security fenced area being 56'x62'.

A discussion on the surrounding towers and their height took place. Commissioner Everett questioned the security issue and why the applicants could not collocate.

Mark Cox, Rocky Mountain Power representative addressed the security issue. He reported Homeland Security implemented security guidelines in 2001. Main lines of 345kV and above must meet those federal security guidelines in order to ensure the infrastructure could not be compromised. One guideline is that towers controlling these main lines could not collocate. He asked that the commission approve the permit as requested.

The Commission discussed the item and made the following findings of fact:

- The subject property is located in the OSC-20 zone and the use is allowed within that zone with a Conditional Use Permit;
- The project meets the requirements of the zone;
- The project meets the Federal Government requirements of separation and is unable to collocate with another entity due to security issues;
- The project is upgrading an existing infrastructure system for public benefit;
- The use is necessary for future development.

Motion: Commissioner Christopher **MOVED** to recommend the County Commission approve the Conditional Use Permit request to install a proposed 60' lattice tower within the OSC-20 zone, on BLM land adjacent to other cell tower locations on Little Creek Mountain west of Apple Valley for Rocky Mountain Power; Rocky Mountain Power/Holly Groth and Mark Cox, applicants with the following findings and facts:

- The subject property is located in the OSC-20 zone and the use is allowed within that zone with a Conditional Use Permit;
- The project meets the requirements of the zone;
- The project meets the Federal Government requirements of separation and is not able to collocate with another entity due to security issues;
- The project is upgrading an existing infrastructure system for public benefit;
- The use is necessary for future development.

Commissioner Ford **SECONDED**. The motion carried with all six (6) Commissioners voting in favor.

This item will go before the County Commission on December 20, 2011 for consent.

VII. CONDITIONAL USE PERMIT. Request permission for the "Zion's 50 and 100 Ultra Marathon Race" from Virgin on SR-9 to Gooseberry, looping around from Virgin to Kolob Terrace Road through Smith's Mesa and ending back at Virgin; a 100 mile run (36 hours) Saturday and Sunday, May 10 & 11, 2012; Matt Gun, applicant.

The Planner stated the "Zion's 50 and 100 Ultra Marathon" is a two day event sponsored by Matt Gunn and will be held May 10 and 11, 2012. The race will begin at Virgin Town Park and covers 100 miles over Sheep Bridge Road, Gooseberry Mesa, Smithsonian Butte Road, Smith's Mesa Road and Kolob Terrace Road. There may be as many as 100 participants in this race. Yucca Portables will provide the 22 portable toilets to be located along the event route. Each of the 12 aid stations will be placed 7-9 miles apart and accessible by vehicle. Aid stations are equipped with food, water, first aid kits, blankets, camping chairs for runners, and garbage bags. Dixie Amateur Radio Club will communicate emergencies and supply needs to the aid stations. There is cell phone reception at the aid stations. A volunteer plan and race committee along with a liability insurance policy is in place listing Washington County as a beneficiary. The applicant has been in touch with Chief Wright from Springdale. Staff has asked the applicant to confirm jurisdiction with Washington County Sheriff's Department making them aware of the event and working with the applicant on schedules. Mr. Gunn will update the commission on the event and the route when finalized.

Matt Gunn, Race Director, explained how the idea came about. He stated so far, there are 30 participants signed up. Because this is the first year of the race they want to try to keep it smaller; therefore, the event will be limited to 100 people. The participants are coming from all over the country. He explained the race course and the terrain and types of people who participate and reasons why.

The Commission and applicant discussed the race and the course; after which, the commission discussed and made the following findings of fact for the event approval:

- Insurance has been obtained and is on file with the County;
- Aid stations for medical issues and port-a-potties will be in place;
- Meets the county requirements of a race event;
- The applicant has contacted the various police departments who are cooperating with the race;
- All permits are or will be in place during the race.

Motion: Commissioner Christopher **MOVED** to recommend the County Commission approve the Conditional Use Permit request for the "Zion's 50 and 100 Ultra Marathon Race" from Virgin on SR-9 to Gooseberry, looping around from Virgin to Kolob Terrace Road through Smith's Mesa and ending back at Virgin; a 100 mile run (36 hours) Saturday and Sunday, May 10 & 11, 2012; Matt Gun, applicant with the following findings of fact:

- Insurance has been obtained and is on file with the County;
- Aid stations for medical issues and port-a-potties will be in place;
- Meets the county requirements of a race event;
- The applicant has contacted the various police departments who are cooperating with the race;
- All permits are or will be in place during the race.

Commissioner Jones **SECONDED**. The motion carried with all six (6) Commissioners voting in favor.

This item will go before the County Commission on December 20, 2011 for consent.

VIII. MINUTES. Consider approval of the minutes of the regular Planning Commission meeting held November 8, 2011.

Motion: Commissioner Everett **MOVED** to adopt the Minutes of November 8, 2011 as written. Commissioner Balen **SECONDED**. The motion carried with all six (6) Commissioners voting in favor.

IX. COUNTY COMMISSION ACTION REVIEW. Review of action taken by the County Commission on Planning Items; County initiated.

The Planner reported there were two items on the County Commission agenda from the Planning Commission that were approved, which were the Conditional Use Permit Extension for fiber optic lines from QWEST and the amendments to the Washington County General Plan by adopting the community plans for Central/Dixie Deer Estates, East Enterprise, New Harmony, Cliffdwellers/Grassy Meadows Sky Ranch, and Kolob Mountain a part of the private lands portion of the General Plan

X. COMMISSION & STAFF REPORTS. General reporting on various topics; County initiated.
No reports were given.

Commissioner Everett moved to adjourn the meeting at 4:25 p.m.

Doreen Bowers-Irons, Planning Secretary
Approved: 10 January 2012